

Mr. ALTMIRE. Madam Speaker, last month the House and the Senate passed the Military Reservist and Veterans Small Business Reauthorization and Opportunity Act to expand business opportunities for veterans and Reservists. And after Senate action, today we will vote again to pass this legislation that I introduced to ensure veterans and Reservists are afforded every opportunity for economic success at home given their sacrifices abroad.

Starting and maintaining a small business can be challenging for anyone, and unfortunately veterans often face unique obstacles as a result of their military service. The unemployment rate among veterans is more than twice that of the national average, and nearly 40 percent of Reservists lose income when they are deployed.

While Congress has taken action to provide Federal agencies with resources to encourage entrepreneurial opportunities for veterans, I believe that more can still be done to relieve the burden that is placed on small business owners during and after deployment.

At a time when our veteran population continues to grow, it is more important than ever for us to afford our brave men and women in uniform every opportunity for success. The Military Reservist and Veterans Small Business Reauthorization and Opportunity Act provides the SBA's Office of Veterans Business Development with the resources necessary to expand entrepreneurial opportunities for veterans and Reservists and improve existing programs to help keep small businesses afloat while their members are deployed.

The amendment we will consider today makes minor changes to the bill we passed in December, but the intent remains the same. This legislation increases funding for the SBA's Office of Veterans Business Development, improves programs designed to help relieve the burden placed on small business owners during and after deployments, facilitates the coordination of all Federal agencies to focus attention on expanding opportunities for veteran-owned businesses, makes the SBA Advisory Committee on Veterans Business Affairs permanent, and increases the number of veterans business outreach centers across the country.

Madam Speaker, there is no question that veterans have a unique ability to thrive as entrepreneurs. They have the skill and the drive necessary to run successful businesses. But more must be done to help them fulfill their goals and their needs.

I strongly support this legislation, which I introduced, and I ask my colleagues for their support of the Military Reservist and Veterans Small Business Reauthorization and Opportunity Act, and urge the Senate to quickly take up and pass this important legislation.

□ 1115

Lastly, Madam Speaker, I would thank the gentleman from Florida, my

good friend, Mr. BUCHANAN; the ranking member, Mr. CHABOT, for their help in working through these issues. And hopefully now, with the work of the chairwoman, we can have a bill that can pass both Chambers and move to the President's desk.

Mr. CHABOT. Madam Speaker, I would just like to commend two freshman Members. I think this is another example that shows bipartisanship on the Small Business Committee, to the credit of the chairwoman, Ms. VELÁZQUEZ, the gentleman from Pennsylvania (Mr. ALTMIRE), a freshman Member, and Mr. BUCHANAN, a freshman Member from Florida, working together to benefit veterans and small businesses in this country. So I think I'd like to see that spirit illustrated in the rest of the Congress, and I want to thank again Mr. ALTMIRE and Mr. BUCHANAN.

Madam Speaker, I yield such time as he may consume to Mr. BUCHANAN.

Mr. BUCHANAN. Madam Speaker, I want to thank the ranking member for yielding me the time, and I rise in support of the resolution.

I'd also like to thank my fellow freshman, Congressman ALTMIRE, and I want to thank the chairman of our Small Business Committee, because she has been very bipartisan from day one. She's been very helpful to me, and I think, frankly, this is what the country is looking for. So I want to thank the freshman Congressman. I think this is a very powerful thing.

Also, I just wanted to say that I know there's a Senate compromise, and a number of provisions in that are important to me.

This resolution incorporates legislation I introduced in May and the House passed in June, creating an important program within the Small Business Administration. This will give our veterans not just a chance at success in a small business enterprise, but provide them with the help and assistance a grateful Nation can offer.

My legislation is intended to help veterans through grants, information services and contacts with professionals in their field of endeavor. This Federal support will enhance the ability of veterans to become an entrepreneur in his or her own right.

The measure puts an emphasis on providing veterans with the market research, financial options, and technological training important to becoming a successful small business owner.

This legislation not only expands the number but the scope of Veteran Outreach Centers. It ensures the opening of more doors in terms of that and the opportunity for women veterans. Assisting our women returning from combat has been an area long overlooked, and it's high time we did something about it.

I know in my personal situation, I went in as an 18-year-old in the Air National Guard. At 23, I had a chance to get in business for myself, for a kid that grew up in a blue-collar family,

and I've lived that American Dream, being self-employed for 30 years. I want to make sure that our veterans have that same opportunity today for all the sacrifices they are making.

I'm excited today that the House will pass a resolution that will help individuals make an important transition from a veteran to a small business entrepreneur, and we are one step closer to having this important legislation signed into law.

I urge my colleagues to suspend the rules and support the resolution.

Ms. VELÁZQUEZ. Madam Speaker, I have no additional speakers, but I reserve the right to close.

Mr. CHABOT. Madam Speaker, we yield back the balance of our time.

Ms. VELÁZQUEZ. Madam Speaker, I just want to take the opportunity again to thank Ranking Member CHABOT and Mr. BUCHANAN and Mr. ALTMIRE and also the staff from the Democratic side and the Republican side for working in a bipartisan manner to help achieve this goal of providing the tools necessary for the veterans who are returning home.

With that, I strongly urge my colleagues to vote for H. Res. 921.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from New York (Ms. VELÁZQUEZ) that the House suspend the rules and agree to the resolution, H. Res. 921.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Ms. VELÁZQUEZ. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### PROVIDING FOR CONSIDERATION OF H.R. 2768, SUPPLEMENTAL MINE IMPROVEMENT AND NEW EMERGENCY RESPONSE ACT OF 2007

Ms. SLAUGHTER. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 918 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

#### H. RES. 918

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2768) to establish improved mandatory standards to protect miners during emergencies, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. General debate shall be confined to

the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived except those arising under clause 10 of rule XXI. Notwithstanding clause 11 of rule XVIII, no amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived except those arising under clause 9 or 10 of rule XXI. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. During consideration in the House of H.R. 2768 pursuant to this resolution, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to such time as may be designated by the Speaker.

The SPEAKER pro tempore. The gentlewoman from New York is recognized for 1 hour.

Ms. SLAUGHTER. Madam Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Washington (Mr. HASTINGS). All time yielded during consideration of the rule is for debate only.

#### GENERAL LEAVE

Ms. SLAUGHTER. Madam Speaker, I ask unanimous consent that all Members be given 5 legislative days in which to revise and extend their remarks on House Resolution 918.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Ms. SLAUGHTER. Madam Speaker, I yield myself such time as I may consume.

H. Res. 918 provides for consideration of H.R. 2768, the Supplemental Mine Improvement and New Emergency Response Act, under a structured rule.

As the Clerk just read, the rule provides 1 hour of general debate controlled by the Committee on Education

and Labor. The rule waives all points of order against consideration of the bill except clauses 9 and 10 of rule XXI. The rule makes in order all four amendments that were submitted to the Rules Committee on this bill, including a full substitute. The amendments are debatable for 10 minutes each, except for the substitute which is debatable for 30 minutes. The rule also provides one motion to recommit, with or without instructions.

Madam Speaker, like most Americans, I vividly remember the terrible mine tragedy at Crandall Canyon Mine in Utah last August as we waited day after day, praying for the safety of the miners. We watched with great trepidation and sadness as three rescue workers were also killed attempting to save six miners who were trapped in a horrific mine collapse, all of whom, I am sad to say, did not survive.

As a native Kentuckian and one who remembers vividly the mines and particularly the whistles in the middle of the night indicating something had gone wrong at the mine, I was touched by that tragedy on a very personal level. It reminded me not only of the dangers of the profession but also the important role of Congress to do all that we can to ensure their safety.

I was simply shocked by some of the disturbing facts that were revealed after just a brief review of the evidence. The Crandall Canyon tragedy appears to have been preventable, and the rescue effort handled by the Mine Safety and Health Administration was tragically mismanaged.

Following the tragedy, the New York Times and other publications reported that the Mine Safety and Health Administration "failed to conduct the required inspections . . . at 107 of the Nation's 731 underground coal mines," and "that the agency had misstated the number of inspections it had conducted, apparently to inflate its rate of completed inspections."

□ 1130

How tragic that is when lives are at stake. Sadly, on the day of the accident, we saw it was not NIOSH that was in charge of safety for the miners, but the owner, concerned only with his bottom line.

Madam Speaker, the evidence shows that, despite significant progress over the last several decades, mining remains one of the most dangerous jobs in America. Mining fatalities occur at a rate more than seven times the average for all private industries, far exceeding other dangerous occupations. Last year alone, 56 miners died on the job in the United States.

Unfortunately, the tragedy at Crandall Canyon Mine was only the latest in a series of mine disasters, including three others last year which combined claimed 19 lives, the Sago Mine explosion, the fire at Aracoma Alma Mine, and the Kentucky Darny Mine.

Madam Speaker, Congress owes it to the victims and to their families to

perform a vigorous investigation to uncover what went wrong during these tragedies and how we can ensure that it never happens again. I am proud to say that we stand here today resolute in our promise to enhance the safety of our mine workers, bringing forth a bill that will aim to fulfill that pledge.

The Mine Improvement and New Emergency Response Act, or H.R. 2768, will help to prevent future disasters as well as improve our emergency response should another tragedy occur. We took an important step last Congress enacting into law the MINER Act, the bill intended to prevent disasters such as Crandall Canyon. However, the administration made it crystal clear that it did not intend to go any further or move more quickly than required under the MINER Act, despite new evidence that quicker action is necessary to ensure the safety of miners.

This bill empowers the Mine Safety and Health Administration to protect miners, providing them with the much-needed authority to investigate mine operators and punish those that ignore or break the law. Unfortunately, too many persons on the Oversight Committee are mine owners themselves. By providing the agency with subpoena authority, it will be permitted to stop production in mines that do not pay off delinquent accounts, and to shut down mines that do not abate violations. That is certainly long overdue and should have been done at least a century ago.

The bill also requires oversight and accountability by the agency, demanding that MSHA take a more active role in protecting the safety of the workers. For example, MSHA will be required to carefully review every plan for the notoriously dangerous practice known as "retreat mining" and to physically observe the process when it begins. In addition, they will be required to issue emergency response plans. Remember that the Crandall Canyon Mine had already been retreat-mined before these miners started work.

Furthermore, the bill is an important tool to enhance the safety and security of miners. It creates a miner ombudsman office to process incoming complaints and to assist whistleblowers while establishing solid ground rules for independent investigation of multiple fatality mine accidents. In addition, it requires improved communications and tracking systems, and it cuts the coal dust exposure limit in half, which is so important because I learned yesterday from Chairman MILLER that black lung disease, one of the most awful ways to live and die, is on the upsurge.

While this legislation takes groundbreaking steps to protect miners, we still have a long way to go to ensure that mining no longer carries the ominous description of "one of America's most deadly professions." More must be done to reduce long-term health risks facing miners, such as

black lung disease, which can be just as deadly as on-the-job tragedies. We must expand on the MINER Act until tragedies like Crandall Canyon are a thing of the past and the death toll ceases to rise. Many oversight hearings conducted by the Committee on Education and Labor concluded that not only were the recent mining disasters preventable, but that the risk of a repeat incident is still very real.

I would like to take a moment to commend the House Education and Labor Committee under the wonderful leadership of Chairman GEORGE MILLER. It was Mr. MILLER who leapt into action to take on this immense responsibility.

This represents a marked change in the way the Congress has been operating following last year's election. Since Democrats regained control of the House and Senate last November, we have once again begun to use two of the most basic tools in our legislative tool box, they are oversight and investigation, and today's bill is no exception.

The bill shows our commitment to proactively advocate for working men and women, especially the victims and families of disasters like that that occurred at Crandall Canyon last August. We must do everything we can to ensure that every single miner is able to return home at the end of the day to their family. I am proud to say this is, at its heart, the true intention of this bill.

Madam Speaker, I reserve the balance of my time.

Mr. HASTINGS of Washington. Madam Speaker, I thank the chairwoman of the Rules Committee, Ms. SLAUGHTER, for yielding me the customary 30 minutes.

I yield myself as much time as I may consume.

(Mr. HASTINGS of Washington asked and was given permission to revise and extend his remarks.)

Mr. HASTINGS of Washington. Madam Speaker, it is imperative that the over 200,000 miners in the United States work in a safe environment. Tragedies in recent years have highlighted the need to improve mine safety. In an effort to improve mine safety and prevent future tragedies, I was pleased that in 2006 the Senate unanimously, and the House overwhelmingly, passed the Mine Improvement and New Emergency Response (MINER) Act, which was signed into law. This comprehensive, overwhelmingly bipartisan law represented a significant step, the first in some 30 years, forward in improving mine safety. But, Madam Speaker, it's unfortunate that today Democrat leaders have put bipartisanship aside and brought forth a rule to allow the House to consider legislation that threatens to jeopardize, not improve, meaningful achievements and efforts currently under way.

The MINER law of 2006 is still being implemented, and to date, the Mine Safety and Health Administration has

met all of its statutory deadlines in implementing the new law. However, Democratic leaders have chosen to bring forth the Supplemental Mine Improvement and New Emergency Response Act, which ignores the progress that has been made, and further, provides no opportunity for stakeholder participation in the regulatory process and imposes unrealistic time requirements on employers.

In addition, it is concerning that this bill would allow technology to be placed in mines that has not been deemed "intrinsically safe" by the Mine Safety and Health Administration. This has the potential, Madam Speaker, to result in serious safety issues, such as maybe an explosion.

Another major safety concern is that this bill creates a two-tiered notification system in the event of an accident, with one set of reportable incidents being subject to be reported within 15 minutes and another set within an hour. Madam Speaker, current law requires a mine operator to call the Mine Safety and Health Administration within 15 minutes of a reportable incident or face a fine. This new confusing tiered system could potentially lessen protection to miners.

Lastly, this bill does not empower all miners to participate in the development of safety policies and procedures through the formation of safety teams. Currently, miners who are not part of a union can be prohibited from working with management to promote safety. Representatives KLINE of Minnesota and WILSON of South Carolina will be offering a substitute amendment later to end this discrimination between union and nonunion employees. All miners should be able to have a say when it comes to their safety, and this bill fails to do that.

Before enacting additional legislation that could be counterproductive, Congress should allow current law to be fully implemented. Congress should also review the law first before dictating mine safety regulations that fail to advance safety, potentially threatens jobs, and impose over \$1 billion in unfunded mandates on the mining industry.

So, Madam Speaker, I urge my colleagues to vote against this rule and the underlying legislation.

Madam Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Madam Speaker, I would like to inquire if the gentleman from Washington has any remaining speakers.

Mr. HASTINGS of Washington. I do have another speaker.

Ms. SLAUGHTER. Madam Speaker, I reserve the balance of my time.

Mr. HASTINGS of Washington. At this time, I would like to recognize the ranking member of the Workforce Committee, Mr. McKEON, for 5 minutes.

Mr. McKEON. I thank the gentleman for yielding.

Since the 110th Congress was gavelled into session, not a single bill within

the jurisdiction of the Committee on Education and Labor has been considered under an open rule. Sadly, today's bill is no exception. Nonetheless, I do want to thank the majority for making the Republican substitute in order. I believe the S-MINER Act is fundamentally flawed and cannot be fixed with discrete amendments. As such, anything short of the Republican substitute will only result in cosmetic changes to a bill whose flaws run much deeper.

Each of us recognizes the importance of mine safety. The individuals who work in mines supply the energy that powers this Nation. Their job is dangerous, yet vital, and keeping them safe is critical.

Our commitment to mine safety is nothing new. In fact, it was nearly 2 years ago that we first took up the MINER Act in an effort to implement the most comprehensive reforms to mine safety in a generation. That bill enjoyed broad bipartisan support as well as the backing of both labor and industry.

The MINER Act was signed into law just a year and a half ago, and already it is producing major changes in the operation of our Nation's mines. The law included an aggressive implementation timetable, and the mining community has acted quickly to embrace the law and make its required changes. Our committee has monitored implementation of the MINER Act in order to ensure it is quickly and effectively put into place. There should be no question about our commitment to mine safety. Yet, here we are today to consider a bill that in many ways ignores the progress that has been made.

At best, the S-MINER Act is premature. The 2006 MINER Act has not yet been given the chance to take root, with many of its reforms still being developed by MSHA and those in the field. At worst, the S-MINER Act could actually derail ongoing progress by sending regulators and the mining community back to square one on many critical safety issues.

I would like to quote from an article published by the Lexington, Kentucky Herald-Leader by Rick Honaker, Mining Foundation distinguished professor and chairman of the University of Kentucky department of mining engineering:

"But now it seems very strange, almost incomprehensible, that a move is afoot in Congress to impose an entirely new set of requirements on coal mine operators and mine inspectors even before there has been an opportunity to comply with the far-reaching provisions of the MINER Act. It threatens to disrupt the all-important emergency rescue provisions of the law. Simply put, additional legislation now serves no useful purpose."

Madam Speaker, Republicans have developed an alternative to the S-MINER Act that we believe strikes the appropriate balance between strengthening mine safety and maintaining the

widely supported reforms enacted less than 2 years ago. First and foremost, our substitute underscores the importance of the MINER Act reforms and restates our commitment to seeing them implemented fully and forcefully. In addition to supporting these strong reforms, our substitute goes further to protect miners by allowing them to be full participants in the safety process.

During the Education and Labor Committee's consideration of this bill, Representative KLINE offered an amendment that would have taken meaningful steps to enhance mine safety, without jeopardizing work already under way. That amendment, like our substitute, would empower miners by directly engaging them in the development of safety policies and procedures through the formation of safety teams. Currently, nonunionized miners may be prohibited from working with management to promote safety through teams.

To further protect miners, our substitute would enhance the MINER Act reforms by fostering communication between MSHA and the Bureau of Land Management; studying the conditions the next generation of miners will face with deep mine conditions, as well as fostering a better understanding of retreat mining using pillar removal; and clarifying information dissemination in the event of a tragedy.

Lastly, we would implement a testing program for illegal substances. This would not only protect those in the mines, but also identify miners who are struggling with addiction and in need of help. The States of Virginia and Kentucky have already implemented this safety measure, and miners have been protected because of it.

Madam Speaker, I cannot help but notice that the amendment offered by the distinguished chairman of the committee also includes a provision to address the issue of drug abuse among miners. I also cannot help but notice that this provision was inserted at the very last possible minute, several hours after the deadline for amendments to the Rules Committee. I hope this 11th-hour acknowledgement of the crippling problem of drug abuse among miners is a signal of genuine interest in addressing the issue. Unfortunately, by providing only a study rather than a strong testing program like that called for by Republicans, this gesture rings hollow.

Madam Speaker, although the rule makes in order a strong Republican alternative, it remains flawed because it allows consideration of a bill that should not pass.

□ 1145

The S-MINER Act abandons bipartisan mine safety reforms and replaces stakeholder expertise with bureaucratic Washington mandates that threaten mine workers' jobs. I urge a "no" vote.

Ms. SLAUGHTER. Madam Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. HASTINGS of Washington. Madam Speaker, I yield myself the balance of my time.

Madam Speaker, for the last several months, Republicans have highlighted the need to change the House rules in order to restore accountability and enforceability to the earmark rule.

Clearly, the rules are flawed when it comes to enforceability of earmarks. House Republicans believe every earmark should be debatable on the House floor, but time after time Members have been denied the opportunity to challenge earmarks during consideration of the rule and the bill.

Over the last several months, we have learned that the earmark rule does not apply when considering amendments between the Houses. This loophole has prevented numerous earmarks from being challenged in the energy bill, the State Children's Health Insurance Program expansion legislation, and the omnibus bill, which contained nearly 9,000 earmarks, including at least 150 earmarks that were air-dropped in the bill at the last minute.

Madam Speaker, in October Parliamentarian John Sullivan sent a letter to Chairwoman SLAUGHTER confirming that the current rules are flawed as they relate to earmarks. In his letter, he states the earmark rule "does not comprehensively apply to all legislative propositions at all stages of the legislative process."

Madam Speaker, I will insert this letter from House Parliamentarian John Sullivan into the RECORD.

HOUSE OF REPRESENTATIVES,  
OFFICE OF THE PARLIAMENTARIAN,  
Washington, DC, October 2, 2007.

Hon. LOUISE MCINTOSH SLAUGHTER,  
Committee on Rules, House of Representatives,  
Washington, DC

DEAR CHAIRWOMAN SLAUGHTER: Thank you for your letter of October 2, 2007, asking for an elucidation of our advice on how best to word a special rule. As you also know, we have advised the committee that language waiving all points of order "except those arising under clause 9 of rule XXI" should not be adopted as boilerplate for all special rules, notwithstanding that the committee may be resolved not to recommend that the House waive the earmark-disclosure requirements of clause 9.

In rule XXI, clause 9(a) establishes a point of order against undisclosed earmarks in certain measures and clause 9(b) establishes a point of order against a special rule that waives the application of clause 9(a). As illuminated in the rulings of September 25 and 27, 2007, clause 9(a) of rule XXI does not comprehensively apply to all legislative propositions at all stages of the legislative process.

Clause 9(a) addresses the disclosure of earmarks in a bill or joint resolution, in a conference report on a bill or joint resolution, or in a so-called "manager's amendment" to a bill or joint resolution. Other forms of amendment—whether they be floor amendments during initial House consideration or later amendments between the Houses—are not covered. (One might surmise that those who developed the rule felt that proposals to amend are naturally subject to immediate peer review, though they harbored reservations about the so-called "manager's amendment," i.e., one offered at the outset of con-

sideration for amendment by a member of a committee of initial referral under the terms of a special rule.)

The question of order on September 25 involved a special rule providing for a motion to dispose of an amendment between the Houses. As such, clause 9(a) was inapposite. It had no application to the motion in the first instance. Accordingly, Speaker pro tempore Holden held that the special rule had no tendency to waive any application of clause 9(a). The question of order on September 27 involved a special rule providing (in pertinent part) that an amendment be considered as adopted. Speaker pro tempore Blumenauer employed the same rationale to hold that, because clause 9(a) had no application to the amendment in the first instance, the special rule had no tendency to waive any application of clause 9(a).

The same would be true in the more common case of a committee amendment in the nature of a substitute made in order as original text for the purpose of further amendment. Clause 9(a) of rule XXI is inapposite to such an amendment.

In none of these scenarios would a ruling by a presiding officer hold that earmarks are or are not included in a particular measure or proposition. Under clause 9(b) of rule XXI, the threshold question for the Chair—the cognizability of a point of order—turns on whether the earmark-disclosure requirements of clause 9(a) of rule XXI apply to the object of the special rule in the first place. Embedded in the question whether a special rule waives the application of clause 9(a) is the question whether clause 9(a) has any application.

In these cases to which clause 9 of rule XXI has no application in the first instance, stating a waiver of all points of order except those arising under that rule—when none can so arise—would be, at best, gratuitous. Its negative implication would be that such a point of order might lie. That would be as confusing as a waiver of all points of order against provisions of an authorization bill except those that can only arise in the case of a general appropriation bill (e.g., clause 2 of rule XXI). Both in this area and as a general principle, we try hard not to use language that yields a misleading implication.

I appreciate your consideration and trust that this response is to be shared among all members of the committee. Our office will share it with all inquiring parties.

Sincerely,

JOHN V. SULLIVAN,  
Parliamentarian.

Madam Speaker, today I will be asking my colleagues to vote "no" on the previous question so that I can amend the rule in order to close the loopholes and restore accountability and enforceability to the House earmark rules.

Madam Speaker, I ask unanimous consent that the text of the amendment and extraneous material be inserted into the RECORD prior to the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. HASTINGS of Washington. Madam Speaker, I urge my colleagues to vote "no" on the previous question, oppose the rule.

Madam Speaker, I yield back the balance of my time.

Ms. SLAUGHTER. Madam Speaker, I urge a "yes" vote on the previous question so that we can give more safety to the miners who work day after day in

sometimes unsafe and unspeakable conditions. I also urge a “yes” vote on the rule.

The material previously referred to by Mr. HASTINGS of Washington is as follows:

AMENDMENT TO H. RES. 918

OFFERED BY MR. HASTINGS OF WASHINGTON

At the end of the resolution, add the following:

SEC. 3. That immediately upon the adoption of this resolution the House shall, without intervention of any point of order, consider the resolution (H. Res. 479) to amend the Rules of the House of Representatives to provide for enforcement of clause 9 of rule XXI of the Rules of the House of Representatives. The resolution shall be considered as read. The previous question shall be considered as ordered on the resolution to final adoption without intervening motion or demand for division of the question except: (1) one hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on Rules; and (2) one motion to recommit.

(The information contained herein was provided by Democratic Minority on multiple occasions throughout the 109th Congress.)

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Democratic majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's Precedents of the House of Representatives, (VI, 308-311) describes the vote on the previous question on the rule as “a motion to direct or control the consideration of the subject before the House being made by the Member in charge.” To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that “the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition” in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: “The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition.”

Because the vote today may look bad for the Democratic majority they will say “the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever.” But that is not what they have always said. Listen to the definition of the previous question used in the Floor Procedures Manual published by the Rules Committee in the 109th Congress, (page 56). Here's how the Rules Committee described the rule using information from Congressional Quarterly's “American Congressional Dictionary”: “If the previous question is defeated, control of debate shifts to the leading opposition member (usually the minority Floor Manager) who then manages an hour of debate and may offer a germane amendment to the pending business.”

Deschler's Procedure in the U.S. House of Representatives, the subchapter titled “Amending Special Rules” states: “a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate.” (Chapter 21, section 21.2) Section 21.3 continues: Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon.”

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Democratic majority's agenda and allows those with alternative views the opportunity to offer an alternative plan.

Ms. SLAUGHTER. Madam Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Ms. SLAUGHTER. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on ordering the previous question will be followed by 5-minute votes on adoption of the resolution, if ordered; suspending the rules and agreeing to House Resolution 912; and suspending the rules and agreeing to House Resolution 921.

The vote was taken by electronic device, and there were—yeas 222, nays 191, not voting 17, as follows:

[Roll No. 2]

YEAS—222

Abercrombie	Costello	Hall (NY)
Ackerman	Courtney	Hare
Allen	Cramer	Harman
Altmire	Crowley	Hastings (FL)
Andrews	Cuellar	Hereth Sandlin
Arcuri	Cummings	Higgins
Baird	Davis (AL)	Hill
Baldwin	Davis (CA)	Hinchey
Bean	Davis (IL)	Hinojosa
Becerra	Davis, Lincoln	Hirono
Berman	DeFazio	Hodes
Bishop (GA)	DeGette	Holden
Bishop (NY)	Delahunt	Holt
Blumenauer	DeLauro	Hooley
Boren	Dicks	Hoyer
Boswell	Dingell	Inslee
Boucher	Doggett	Israel
Boyd (FL)	Donnelly	Jackson (IL)
Boyd (KS)	Doyle	Jackson-Lee
Brady (PA)	Edwards	(TX)
Bralley (IA)	Ellison	Johnson (GA)
Brown, Corrine	Ellsworth	Johnson, E. B.
Butterfield	Emanuel	Jones (OH)
Capps	Engel	Kagen
Capuano	Eshoo	Kanjorski
Cardoza	Etheridge	Kaptur
Carmanhan	Farr	Kennedy
Carney	Fattah	Kildee
Castor	Filner	Kilpatrick
Chandler	Frank (MA)	Kind
Clarke	Giffords	Klein (FL)
Clay	Gillibrand	Kucinich
Cleaver	Gonzalez	Lampson
Clyburn	Gordon	Langevin
Cohen	Green, Al	Larsen (WA)
Conyers	Green, Gene	Larson (CT)
Cooper	Grijalva	Lee
Costa	Gutierrez	Levin

Lewis (GA)	Olver	Skelton
Lipinski	Ortiz	Slaughter
Loeb	Pallone	Smith (WA)
Loeb	Pascarell	Snyder
Lofgren, Zoe	Pastor	Solis
Lowey	Payne	Space
Lynch	Perlmuter	Spratt
Mahoney (FL)	Peterson (MN)	Stark
Maloney (NY)	Pomeroy	Stupak
Markey	Price (NC)	Sutton
Marshall	Rahall	Tauscher
Matheson	Rangel	Taylor
Matsui	Reyes	Thompson (CA)
McCarthy (NY)	Richardson	Thompson (MS)
McCollum (MN)	Rodriguez	Tierney
McDermott	Ross	Towns
McGovern	Rothman	Tsongas
McIntyre	Roybal-Allard	Udall (CO)
McNerney	Ruppersberger	Udall (NM)
McNulty	Rush	Van Hollen
Meek (FL)	Ryan (OH)	Velázquez
Melancon	Salazar	Visclosky
Michaud	Sánchez, Linda	Walz (MN)
Miller (NC)	T.	Wasserman
Miller, George	Sanchez, Loretta	Schultz
Mitchell	Sarbanes	Waters
Mollohan	Schakowsky	Watson
Moore (KS)	Schiff	Watt
Moore (WI)	Schwartz	Waxman
Moran (VA)	Scott (GA)	Weiner
Murphy (CT)	Scott (VA)	Welch (VT)
Murphy, Patrick	Serrano	Wexler
Murtha	Sestak	Wilson (OH)
Nadler	Shea-Porter	Woolsey
Napolitano	Sherman	Wu
Neal (MA)	Shuler	Wynn
Oberstar	Sires	Yarmuth
Obey		

NAYS—191

Aderholt	Ferguson	McKeon
Akin	Flake	McMorris
Alexander	Fortenberry	Rodgers
Bachmann	Fox	Mica
Bachus	Franks (AZ)	Miller (FL)
Barrett (SC)	Frelinghuysen	Miller (MI)
Barrow	Gallegly	Moran (KS)
Bartlett (MD)	Garrett (NJ)	Murphy, Tim
Barton (TX)	Gerlach	Musgrave
Biggart	Gilchrest	Myrick
Billbray	Gingrey	Neugebauer
Bilirakis	Gohmert	Nunes
Bishop (UT)	Goode	Pearce
Blackburn	Goodlatte	Pence
Blunt	Granger	Peterson (PA)
Boehner	Graves	Petri
Bonner	Hall (TX)	Pickering
Bono Mack	Hastings (WA)	Pitts
Boozman	Hayes	Platts
Boustany	Heller	Poe
Brady (TX)	Hensarling	Porter
Broun (GA)	Herger	Price (GA)
Brown (SC)	Hobson	Pryce (OH)
Brown-Waite,	Hoekstra	Putnam
Ginny	Hulshof	Radanovich
Buchanan	Inglis (SC)	Ramstad
Burgess	Issa	Regula
Burton (IN)	Johnson (IL)	Rehberg
Buyer	Johnson, Sam	Reichert
Calvert	Jones (NC)	Renzi
Camp (MI)	Jordan	Reynolds
Campbell (CA)	Keller	Rogers (AL)
Cannon	King (IA)	Rogers (KY)
Cantor	King (NY)	Rogers (MI)
Capito	Kingston	Rohrabacher
Carter	Kirk	Ros-Lehtinen
Castle	Kline (MN)	Roskam
Chabot	Knollenberg	Royce
Coble	Kuhl (NY)	Ryan (WI)
Cole (OK)	LaHood	Sali
Conaway	Lamborn	Saxton
Crenshaw	Latham	Schmidt
Cubin	LaTourette	Sensenbrenner
Davis (KY)	Latta	Sessions
Davis, David	Lewis (CA)	Shadegg
Davis, Tom	Lewis (KY)	Shays
Deal (GA)	Linder	Shuster
Dent	LoBiondo	Simpson
Diaz-Balart, L.	Lucas	Smith (NE)
Diaz-Balart, M.	Lungren, Daniel	Smith (NJ)
Doolittle	E.	Smith (TX)
Drake	Mack	Souder
Dreier	Manzullo	Stearns
Duncan	Marchant	Sullivan
Ehlers	McCarthy (CA)	Tancredo
Emerson	McCaul (TX)	Terry
English (PA)	McCotter	Thornberry
Everett	McCrery	Tiahrt
Fallin	McHenry	Tiberi
Feeney	McHugh	Turner

Upton Weldon (FL) Wittman (VA)  
Walberg Weller Wolf  
Walden (OR) Whitfield (KY) Young (AK)  
Walsh (NY) Wilson (NM) Young (FL)  
Wamp Wilson (SC)

## NOT VOTING—17

Baca Fossella Miller, Gary  
Baker Honda Paul  
Berkley Hunter Shimkus  
Berry Jefferson Tanner  
Culberson Lantos Westmoreland  
Forbes Meeks (NY)

□ 1212

Messrs. SESSIONS and MILLER of Florida changed their vote from “yea” to “nay.”

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

# CONDEMNING ASSASSINATION OF FORMER PAKISTANI PRIME MINISTER BENAZIR BHUTTO AND REAFFIRMING COMMITMENT OF UNITED STATES TO ASSIST PEOPLE OF PAKISTAN

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the resolution, H. Res. 912, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. ACKERMAN) that the House suspend the rules and agree to the resolution, H. Res. 912.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 413, nays 0, not voting 18, as follows:

[Roll No. 3]

YEAS—413

Abercrombie	Boswell	Clarke
Ackerman	Boucher	Clay
Aderholt	Boustany	Cleaver
Akin	Boyd (FL)	Clyburn
Alexander	Boyd (KS)	Coble
Allen	Brady (PA)	Cohen
Altmire	Brady (TX)	Conaway
Andrews	Brady (IA)	Conyers
Arcuri	Broun (GA)	Cooper
Bachmann	Brown (SC)	Costa
Bachus	Brown, Corrine	Costello
Baird	Brown-Waite,	Courtney
Baldwin	Ginny	Cramer
Barrett (SC)	Buchanan	Crenshaw
Barrow	Burgess	Crowley
Bartlett (MD)	Burton (IN)	Cubin
Barton (TX)	Butterfield	Cuellar
Bean	Buyer	Cummings
Becerra	Calvert	Davis (AL)
Berman	Camp (MI)	Davis (CA)
Biggert	Campbell (CA)	Davis (IL)
Bilbray	Cannon	Davis (KY)
Bilirakis	Cantor	Davis, David
Bishop (GA)	Capito	Davis, Lincoln
Bishop (NY)	Capps	Davis, Tom
Bishop (UT)	Capuano	Deal (GA)
Blackburn	Cardoza	DeFazio
Blumenauer	Carnahan	DeGette
Blunt	Carney	Delahunt
Boehner	Carter	DeLauro
Bonner	Castle	Dent
Bono Mack	Castor	Diaz-Balart, L.
Boozman	Chabot	Diaz-Balart, M.
Boren	Chandler	Dicks

Dingell	Klein (FL)	Porter	Watson	Wexler	Woolsey
Doggett	Kline (MN)	Price (GA)	Watt	Whitfield (KY)	Wu
Donnelly	Knollenberg	Price (NC)	Waxman	Wilson (NM)	Wynn
Doolittle	Kucinich	Pryce (OH)	Weiner	Wilson (OH)	Yarmuth
Doyle	Kuhl (NY)	Putnam	Welch (VT)	Wilson (SC)	Young (AK)
Drake	LaHood	Radanovich	Weldon (FL)	Wittman (VA)	Young (FL)
Dreier	Rahall	Rahall	Weller	Wolf	
Duncan	Lamborn	Ramstad			
Edwards	Lampson	Rangel			
Ehlers	Langevin	Regula			
Ellison	Larsen (WA)	Rehberg			
Elsworth	Larson (CT)	Reichert			
Emanuel	Latham	Renzi			
Emerson	LaTourette	Reyes			
Engel	Latta	Reynolds			
English (PA)	Lee	Richardson			
Eshoo	Levin	Rodriguez			
Etheridge	Lewis (CA)	Rogers (AL)			
Everett	Lewis (GA)	Rogers (KY)			
Fallin	Lewis (KY)	Rogers (MI)			
Farr	Linder	Rohrabacher			
Fattah	Lipinski	Ros-Lehtinen			
Feeney	LoBiondo	Roskam			
Ferguson	Loeb sack	Ross			
Filner	Lofgren, Zoe	Rothman			
Flake	Lowey	Roybal-Allard			
Fortenberry	Lucas	Royce			
Fox	Lungren, Daniel	Ruppersberger			
Frank (MA)	E.	Rush			
Franks (AZ)	Lynch	Ryan (OH)			
Frelinghuysen	Mack	Ryan (WI)			
Galleghy	Mahoney (FL)	Salazar			
Garrett (NJ)	Maloney (NY)	Sali			
Gerlach	Manzullo	Sánchez, Linda			
Giffords	Marchant	T.			
Gilchrest	Markey	Sanchez, Loretta			
Gillibrand	Marshall	Sarbanes			
Gingrey	Matheson	Saxton			
Gohmert	Matsui	Schakowsky			
Gonzalez	McCarthy (CA)	Schiff			
Goode	McCarthy (NY)	Schmidt			
Goodlatte	McCaul (TX)	Schwartz			
Gordon	McCollum (MN)	Scott (GA)			
Granger	McCotter	Scott (VA)			
Graves	McCrery	Sensenbrenner			
Green, Al	McDermott	Serrano			
Green, Gene	McGovern	Sessions			
Grijalva	McHenry	Sestak			
Gutierrez	McHugh	Shadeeg			
Hall (NY)	McIntyre	Shays			
Hall (TX)	McKeon	Shea-Porter			
Hare	McMorris	Sherman			
Harman	Hare	Shuler			
Hastings (FL)	Rodgers	Shuster			
Hastings (WA)	McNerney	Simpson			
Hayes	McNulty	Sires			
Heller	Meek (FL)	Skelton			
Hensarling	Melancon	Slaughter			
Herger	Mica	Smith (NE)			
Herseth Sandlin	Michaud	Smith (NJ)			
Higgins	Miller (FL)	Smith (TX)			
Hill	Miller (MI)	Smith (WA)			
Hinche	Miller (NC)	Snyder			
Hinojosa	Miller, George	Solis			
Hiron	Mitchell	Souder			
Hobson	Mollohan	Space			
Hodes	Moore (KS)	Spratt			
Hoekstra	Moore (WI)	Stark			
Holden	Moran (KS)	Stearns			
Holt	Moran (VA)	Stupak			
Hooley	Murphy (CT)	Sullivan			
Hoyer	Murphy, Patrick	Sutton			
Hulshof	Murphy, Tim	Tancredo			
Inglis (SC)	Murtha	Tauscher			
Inslee	Musgrave	Taylor			
Israel	Myrick	Terry			
Issa	Nadler	Thompson (CA)			
Jackson (IL)	Napolitano	Thompson (MS)			
Jackson-Lee	Neal (MA)	Thornberry			
(TX)	Neugebauer	Tiahrt			
Johnson (GA)	Nunes	Tiberi			
Johnson (IL)	Oberstar	Tierney			
Johnson, E. B.	Obey	Towns			
Johnson, Sam	Olver	Tsongas			
Jones (NC)	Ortiz	Turner			
Jones (OH)	Pallone	Udall (CO)			
Jordan	Pascrell	Udall (NM)			
Kagen	Pastor	Upton			
Kanjorski	Payne	Van Hollen			
Kaptur	Pearce	Velazquez			
Keller	Pelosi	Visclosky			
Kennedy	Pence	Walberg			
Kildee	Perlmutter	Walden (OR)			
Kilpatrick	Peterson (MN)	Walsh (NY)			
Kind	Peterson (PA)	Walz (MN)			
King (IA)	Petri	Wamp			
King (NY)	Pickering	Wasserman			
Kingston	Pitts	Schultz			
Kirk	Platts	Waters			
	Poe				
	Pomeroy				

Watson Wexler Woolsey  
Watt Whitfield (KY) Wu  
Waxman Wilson (NM) Wynn  
Weiner Wilson (OH) Yarmuth  
Welch (VT) Wilson (SC) Young (AK)  
Weldon (FL) Wittman (VA) Young (FL)  
Weller Wolf

## NOT VOTING—18

Baca Forbes Meeks (NY)  
Baker Fossella Miller, Gary  
Berkley Honda Paul  
Berry Hunter Shimkus  
Cole (OK) Jefferson Tanner  
Culberson Lantos Westmoreland

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining on this vote. We are encouraging Members to hurry up and vote, please.

□ 1220

Mr. WELLER of Illinois changed his vote from “nay” to “yea.”

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

# PROVIDING FOR CONCURRENCE BY HOUSE WITH AMENDMENT IN SENATE AMENDMENT TO H.R. 4253, MILITARY RESERVIST AND VETERAN SMALL BUSINESS RE-AUTHORIZATION AND OPPORTUNITY ACT OF 2008

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the resolution, H. Res. 921, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from New York (Ms. VELÁZQUEZ) that the House suspend the rules and agree to the resolution, H. Res. 921.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 406, nays 2, not voting 22, as follows:

[Roll No. 4]

YEAS—406

Abercrombie	Bishop (UT)	Calvert
Ackerman	Blackburn	Camp (MI)
Aderholt	Blumenauer	Campbell (CA)
Akin	Blunt	Cannon
Alexander	Boehner	Cantor
Allen	Bonner	Capito
Altmire	Bono Mack	Capps
Andrews	Boozman	Capuano
Arcuri	Boren	Cardoza
Bachmann	Boswell	Carnahan
Bachus	Boucher	Carney
Baird	Boustany	Carter
Baldwin	Boyd (FL)	Castle
Barrett (SC)	Boyd (KS)	Castor
Barrow	Brady (PA)	Chabot
Bartlett (MD)	Brady (TX)	Chandler
Barton (TX)	Braley (IA)	Clarke
Bean	Brown (SC)	Clay
Becerra	Brown, Corrine	Cleaver
Berman	Brown-Waite,	Clyburn
Biggert	Ginny	Coble
Bilirakis	Buchanan	Cohen
Bishop (GA)	Butterfield	Cole (OK)
Bishop (NY)	Buyer	Conaway